STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

The Recovery Project
Petitioner **File No. 21-1760**

v

Auto Club Insurance Association
Respondent

Issued and entered
this 14th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 28, 2021, Overstride Physical Therapy LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Insurance Association (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 22, 2021 and October 27, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 22, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 22, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 24, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on February 1, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on July 2, 7, 14, 16, 21, and 28, 2021, and August 4, 6, 11, 13 and 25, 2021. The Petitioner billed the treatments under procedure codes 97110 and 97112, which are described as therapeutic exercises and neuromuscular reeducation, respectively.

With its appeal request, the Petitioner's submitted documentation included two *Explanation of Benefits* letters issued by the Respondent, clinical documentation from the dates of service at issue, and a narrative outlining its reason for appeal. The Petitioner's clinical documentation identified the injured person's diagnoses as intracranial injury with loss of consciousness of unspecified duration, generalized muscular weakness, ataxic gait, and other amoralities of gait and mobility following a January 1993 motor vehicle accident. The Petitioner's documents indicated that the injured person was to receive skilled physical therapy treatments 2 times per week during the period at issue. The Petitioner's request for an appeal stated that the injured person had limitations that included "frequent falls averaging 1-2 times a month, difficulty ascending and descending stairs with cane and rail," balance fluctuation, and right hip pain rated between 4-6 on a ten-point pain scale.

In its *Explanation of Benefits* letters, the Respondent stated that payment was denied on the basis that treatment exceeded "the period of care for either utilization or relatedness." In its reply, the Respondent reaffirmed its denial and cited Official Disability Guidelines (ODG). Specifically, the Respondent stated:

> In accordance with ODG, Physical Therapy (PT) for Hip and Pelvic conditions, and ODG, Physical Therapy (PT) for Knee and Leg conditions, last review/update date: Feb 12, 2021, physical therapy is not recommended. This determination is made pursuant to the insurer's utilization program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was supported on the dates of service at issue and the treatment was not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate

practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Clinical Practice Guidelines from the American Physical Therapy Association (APTA) for its recommendation.

The IRO reviewer explained that the *Clinical Practice Guidelines (CPG) to Improve Locomotor Function Following Chronic Stroke, Incomplete Spinal Cord Injury, and Brain Injury* provides recommendations for exercise and physical therapy interventions for injured person's that are post 6 months from their acute onset brain injury.

Based on the submitted documentation, the IRO reviewer noted that the injured person was recommended to attend physical therapy to "develop improved gait, balance, and endurance for better function, safety, and improved [activities of daily living.]" The IRO reviewer explained that the CPG indicated strong evidence of ambulation or gait training at "moderate to high intensities." Further, the IRO reviewer opined:

> [I]n this case, the injured person has a diagnosis of [a traumatic brain injury] that requires ongoing physical therapy for his impaired mobility and balance and strength deficits … [physical therapy] will result in improved participation in the community and improved quality of life as determined by the World Health Organization International Classification of Function model.

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that the physical therapy treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses the Respondent's determinations dated August 22, 2021 and October 27, 2021.

The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969

PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford